

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on January 11, 2001 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bilby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Douglas Mood (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)

Members Excused: Rep. Michelle Lee (D)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 91, 1/8/2001; HB 97,
1/8/2001; HB 176, 1/8/2001
Executive Action: HB 112; HB 133

HEARING ON HB 97

Sponsor: REPRESENTATIVE DAVE LEWIS, HD 55, HELENA

Proponents: Dave Senn, Teachers Retirement System
Eric Feaver, Montana Education Association-Montana
Federation of Teachers (MEA-MFT)

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 3.3}

REPRESENTATIVE DAVE LEWIS, HD 55, HELENA, stated the bill is a clean-up bill and has no fiscal impact.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 4.2}

David Senn, Teachers Retirement Systems, stated the Teachers Retirement Act was an act established in 1937. Change happens over time, and the bill is intended to clarify statutes and make them more readable for members. Mr. Senn passed out a Bill Analysis and discussed it. **EXHIBIT**(sth08a01)

{Tape : 1; Side : A; Approx. Time Counter : 13.5}

Eric Feaver, MEA-MFT, said MEA-MFT are in support of the bill and urge the committee's approval.

Opponents:

{Tape : 1; Side : A; Approx. Time Counter : 14.6}

Lance Melton, Montana School Board Association, stated he supports the bill, however, there are 3 points in the bill he would like the committee to look at. 1. Page 6, section 4, needs clarification. 2. Page 8, subsection 5, when a school district hires an individual in a position requiring certification, but the individual has some duties as a clerk, that individual should be entitled membership of the Teachers Retirement System. 3. Page 19, needs the applicability clause of the bill to say this section applies to payments that were not made after the effective date

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 19.6}

REPRESENTATIVE BROWN asked if the committee is broadening the definition of Teacher Rule Allowance of non-certified staff into the Teachers Retirement System. **David Senn** stated no, it has been allowed since 1937. Reference was given to page 8, line 11 of the bill for clarification. **REPRESENTATIVE BROWN** then asked if the Montana School Board Association would be satisfied with the bill if a provision was made on the school district's percentage of Clerks verses Teachers. **Lance Melton** replied their concern is not just with preserving the status to individuals currently employed, but they want to give school districts future flexibility to hire individuals who have both teaching duties and clerk duties. **Mr. Milton** said he would be comfortable if there was some designation of duties or if authority was given to the boards to do that.

REPRESENTATIVE RASER asked if teachers get a large increase in salary, would retired teachers who return to work part time be limited by this, considering they can only make 1/3 of their salary. **Mr. Senn** replied teachers are limited to 1/3 of their final average salary not 1/3 of what that position is currently paying. Retired teachers would not get an increase in salary if the teachers' salaries are largely increased.

REPRESENTATIVE JACOBSON asked if we are trying to keep the best in the educational system, why have page 8, lines 26-30 in the bill. **Mr. Senn** replied there has been situations where a Superintendent/Clerk retired under the Teachers Retirement System. After retirement, the individual would return back to work as, say, a Business Official, contributing to the Public Employees Retirement System but drawing a Teachers Retirement Benefit. This section of the bill is the solution in fixing this.

REPRESENTATIVE DELL asked if a school district Clerk or Business official is able to get into another retirement system other than the Teachers Retirement System. **Mr. Senn** replied yes, they would be covered under the Public Employees Retirement System.

REPRESENTATIVE DELL asked about the cost to the retirement pensions if a cost of living allowance is allowed. **Mr. Senn** replied there would be no cost to the pension.

REPRESENTATIVE OLSON asked if the CPI has been greater than the allowances given to others already on contract, would this be an impact to local district budgets? **Mr. Senn** stated no, local districts are not obligated to pay 1/3 of the final average salary plus increases.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 3.4}

Their was no closing given

HEARING ON HB 176

Sponsor: REPRESENTATIVE LARRY JENT, HD 29, BOZEMAN

Proponents: Representative Brad Newman, HD 38
Mark Taylor, Montana Judges Association

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 3.7}

REPRESENTATIVE LARRY JENT, HD 29, BOZEMAN, stated there is no fiscal impact on the bill. The effect of the bill is that it adds "inactive vested members" of the Judges' Retirement Systems to the pool of judges that may be called into active duty to serve on the bench. An "inactive vested member" is an individual who has served long enough as a judge to get a retirement in the future, but not presently. There will be an amendment to the bill in the future. A Benefit Eligibility and Basic Benefit Formula Table was submitted. **EXHIBIT(sth08a02)**

Proponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 9.7}

Representative Brad Newman, HD 38, stated he is a Prosecuting Attorney and deals with several District Judges on a daily basis. There are cases that need to be resolved and have no District Judges available. There is currently a small pool of judges available, however this is the way to add more judges to the pool without any cost. This bill is an effective tool for meeting these needs. The bill has no fiscal impact on the state budget at all. The money to temporarily hire retired District Judges comes out of the judges' retirement fund.

Mark Taylor, Montana Judges Association, stated he wanted to thank **Representative Jent** and **Representative Newman** for recognizing the current need in the judicial system. In Eastern Montana there are cases on the dockets in excess of 1,500. The Judges currently do not have the resources necessary to handle these dockets. There are certain requirements under the Constitution to insure individuals the right to speedy trials. From a policy standpoint, this statute is being used as a tool to address these issues. The effect of this bill is to put judges in a position so they cannot refuse being called back to duty. The way this would be done is to give judges some fiscal incentive by allowing them to collect their retirement benefit at age 60 instead of 65.

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 18.6}

REPRESENTATIVE HEDGES asked how the proposed legislation will affect the individual's retirement account. **REPRESENTATIVE JENT** replied this would not affect them at all. When a retired judge is called back to duty, he/she will not have anything added to his/her retirement benefit. Judges do not earn any credits by their service because the retirement benefit is the benefit they receive on the day of retirement. **REPRESENTATIVE HEDGES** asked if judges recalled back to active duty contribute to the retirement fund? **REPRESENTATIVE JENT** stated he did not know the answer, but he will find out and let the committee know.

REPRESENTATIVE BROWN asked if it is mandated or discretionary that judges are going to be called back to active duty. **REPRESENTATIVE JENT** replied judges are subject to be called. It is discretionary and does not mean they will be called.

REPRESENTATIVE RIPLEY asked if an "inactive vested member" is an individual who has five years of service. **REPRESENTATIVE JENT** stated they are vested for the benefit after five years of service and can be recalled for active duty after 8 years of service.

REPRESENTATIVE DELL stated they are using the retirement fund to take care of the cost of this. He then asked if there is anything available to show the impact this will have on the unfunded liability. **REPRESENTATIVE JENT** said he was not given any information on that. He then stated he would like to get information from the Judges Retirement Fund on this question and **REPRESENTATIVE HEDGES** question.

CHAIRMAN WALTERS stated he had the same concerns as **REPRESENTATIVE DELL** and asked if an amendment could be done to say the wages of judges called back to duty will not be subject to deduction of retirement contributions. **REPRESENTATIVE JENT** clarified judges who benefit by this bill are not getting any retirement. They are ineligible until age 65. This is why we need the bill.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 29}

REPRESENTATIVE JENT stated Eastern Montana is in great need of this bill. This bill will allow the state to begin resolving some of the crowded judicial dockets in Montana and allow judges to continue to serve the public.

HEARING ON HB 91

Sponsor: **REPRESENTATIVE GEORGE GOLIE, HD 44, GREAT FALLS**

Proponents: **Joan Anderson, Office of Public Instruction**
Lance Melton, Montana School Board Association
Eric Feaver, MEA-MFT
Loren Frazier, School Administrators
Lynda Brannon, Montana Association of School
Business Officials

Opponents: None

Opening Statement by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 0.9}

REPRESENTATIVE GEORGE GOLIE, HD 44, GREAT FALLS, stated this legislation will coordinate school election dates. He submitted a handout on the proposed changes. **EXHIBIT(sth08a03)**

Proponents' Testimony:

{Tape : 2; Side : A; Approx. Time Counter : 2.3}

Joan Anderson, Office of Public Instruction, stated this bill was done by the request of the Office of Public Instruction. The bill is to correct a problem that was created in the 1999 Legislative Session. A flow chart was submitted and discussed on Coordinating School Election Dates. **EXHIBIT(sth08a04)**

Lance Milton, Montana School Board Association, discussed the savings the bill can have at election, considering most of the cost is of an election is the printing of ballots.

Lynda Brannon, Montana Association of School Business Officials (MASBO), stated the bill is designed to allow schools to save money on needless elections. MASBO is in support of the bill and the amendment.

Loren Frazier, School Administrators, stated the main cost of an election is printing of the ballots. If the school districts are going to save money, then the present glitch needs to be corrected in the bills that were passed in the 1999 Legislative Session.

Questions from Committee Members and Responses:

REPRESENTATIVE HEDGES asked if the dates in the bill are concurrent with the financial levy. **Lance Milton** replied yes, it is concurrent.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 13.8}

REPRESENTATIVE GOLIE stated this bill is designed to give school districts the opportunity to save any money they can on elections.

EXECUTIVE ACTION ON HB 112

{Tape : 2; Side : A; Approx. Time Counter : 15.0}

Motion/Vote: REP. WALTERS moved that HB 112 DO PASS. Motion carried unanimously. 18-0

EXECUTIVE ACTION ON HB 133

{Tape : 2; Side : A; Approx. Time Counter : 22.5}

Motion: REP. DELL moved that HB 133 DO PASS.

Motion: REP. RASER moved that HB 133 BE AMENDED.

EXHIBIT(sth08a05)

Discussion:

REPRESENTATIVE BROWN commented on the amendment that she does not agree with broadening the scope to allow employees to donate sick leave to anyone instead of spouses only. This changes the intent of the bill. She also expressed her concern with taking authority out of the employers hands and putting it into the employee's hands.

REPRESENTATIVE JACOBSON stated currently teachers pool together their sick leave into one bank. He then asked if any of the committee members knew of any situations where this has been abused. **REPRESENTATIVE OLSON** replied he did not know of any instances where it has been abused. Generally that is handled in the negotiating agreement at the local level. There is nothing in the law that states you have to have a sick leave bank.

REPRESENTATIVE LENHART commented he once had a sick leave pool for a very short time. There was an individual who would abuse the pool by using his own leave and all the leave in the pool.

REPRESENTATIVE LEHMAN stated the school district he was employed at also had a sick leave bank, however, an employee was only allowed to use 1/4 of the accumulated leave. This worked very successfully and is still in place.

REPRESENTATIVE WALTERS asked if sick leave banks are administered locally. **REPRESENTATIVE LEHAMN** replied yes, and there is a limit on how much sick leave each teacher could donate to the sick leave bank in a school year.

REPRESENTATIVE SMITH asked for some clarification on how the sick leave process works. **REPRESENTATIVE RASOR** explained the process to him.

REPRESENTATIVE DELL gave clarification to a statement made by **REPRESENTATIVE BROWN**. In reality, an employee is the one who owns their sick leave, not the employer.

REPRESENTATIVE MOOD stated he is concerned that sick leave is starting to be used like a commodity or trading cards.

REPRESENTATIVE RIPLEY commented he had concerns about discrimination if sick leave can only be given to the spouses.

Substitute Motion/Vote: **REP. RASER** made a substitute motion that **HB 133 BE AMENDED**. Substitute motion carried 13-5 with Barrett, Mood, Brown, Lehman, and Olson voting no.

Motion/Vote: REP. DELL moved that HB 133 DO PASS AS AMENDED.
Motion failed 8-10 with Barrett, Brown, Hedges, Lehman, Masolo,
Mood, Olson, Ripley, Smith, and Walters voting aye.

Substitute Motion/Vote: REP. MASOLO made a substitute motion that
HB 133 BE TABLED. Substitute motion to reverse vote. 10-8

ADJOURNMENT

Adjournment: 10:08 A.M.

REP. ALLAN WALTERS, Chairman

RUTHIE PADILLA, Secretary

AW/RP

EXHIBIT (sth08aad)